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SUBJECT: AUSTRALIA -- 2009 TIP REPORT: PRESS GUIDANCE AND
DEMARCHE

REF: (A) STATE 59732 (B) STATE 005577

11. This is an action cable; see paras 5 through 7 and 10.

12. On June 16, 2009, at 10:00 a.m. EDT, the Secretary will release the 2009 Trafficking in Persons (TIP) Report at a press conference in the Department's press briefing room. This release will receive substantial coverage in domestic and foreign news outlets. Until the time of the Secretary's June 16 press conference, any public release of the Report or country narratives contained therein is prohibited.

13. The Department is hereby providing Post with advance press guidance to be used on June 16 or thereafter. Also provided is demarche language to be used in informing the Government of Australia of its tier ranking and the TIP Report's imminent release. The text of the TIP Report country narrative is provided, both for use in informing the Government of Australia and in any local media release by Post's public affairs section on June 16 or thereafter. Drawing on information provided below in paras 8 and 9, Post may provide the host government with the text of the TIP Report narrative no earlier than 1200 noon local time Monday June 15 for WHA, AF, EUR, and NEA countries and OOB local time Tuesday June 16 for SCA and EAP posts. Please note, however, that any public release of the Report's information should not/precede the Secretary's release at 10:00 am EDT on June 16.

14. The entire TIP Report will be available on-line at www.state.gov/g/tip shortly after the Secretary's June 16 release. Hard copies of the Report will be pouched to posts in all countries appearing on the Report. The Secretary's statement at the June 16 press event, and the statement of and fielding of media questions by G/TIP's Director and Senior Advisor to the Secretary, Ambassador-at-Large Luis CdeBaca, will be available on the Department's website shortly after the June 16 event. Ambassador de Baca will also hold a general briefing for officials of foreign embassies in Washington DC on June 17 at 3:30 pm EDT.

15. Action Request: No earlier than 12 noon local time on Monday June 15 for WHA, AF, EUR, and NEA posts and OOB local time on Tuesday June 16 for SCA and EAP posts, please inform the appropriate official in the Government of Australia of the June 16 release of the 2009 TIP Report, drawing on the points in para 9 (at Post's discretion) and including the text of the country narrative provided in para 8. For countries where the State Department has lowered the tier ranking, it is particularly important to advise governments prior to the Report being released in Washington on June 16.

16. Action Request continued: Please note that, for those countries which will not receive an "action plan" with specific recommendations for improvement, posts should draw host governments' attention to the areas for improvement identified in the 2009 Report, especially highlighted in the "Recommendations" section of the second paragraph of the

narrative text. This engagement is important to establishing the framework in which the government's performance will be judged for the 2010 Report. If posts have questions about which governments will receive an action plan, or how they may follow up on the recommendations in the 2009 Report, please contact G/TIP and the appropriate regional bureau.

¶7. Action Request continued: On June 16, please be prepared to answer media inquiries on the Report's release using the press guidance provided in para 11. If Post wishes, a local press statement may be released on or after 10:30 am EDT June 16, drawing on the press guidance and the text of the TIP Report's country narrative provided in para 8.

¶8. Begin Final Text of Australia,s country narrative in the 2009 TIP Report:

Australia (TIER 1)

Australia is a destination country for women from Southeast Asia, South Korea, Taiwan, the People,s Republic of China (PRC), and reportedly Eastern Europe trafficked for the purpose of commercial sexual exploitation. Some men and women from several Pacific islands, India, the PRC, South Korea, the Philippines, and Ireland are fraudulently

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recruited to work temporarily in Australia, but subsequently are subjected to conditions of forced labor, including confiscation of travel documents, confinement, and threats of serious harm. Some indigenous teenage girls are subjected to forced prostitution at rural truck stops. Some women who migrated to Australia voluntarily to work illegally in licensed or illegal brothels were subsequently subjected to debt bondage or involuntary servitude. Although most operate through a network of informal contacts in their native countries, experienced and increasingly sophisticated traffickers are adjusting their methods to try to sidestep provisions of anti-trafficking laws. There are traffickers who file asylum claims in the false names victims use to enter the country; victims who later go to the police for help appear unreliable and are at risk of deportation because of their false asylum claim. Unscrupulous recruiters entice undocumented foreign women into prostitution, coaching them to apply for student visas in real or false names, as students may legally work 20 hours a week. Men with legal residence in Australia marry foreign women whom they coerce into prostitution or force into domestic servitude. Some of the civil complaints to authorities about labor violations were noted to contain elements indicative of the crime of trafficking.

The Government of Australia fully complies with the minimum standards for the elimination of trafficking. During the year, three offenders were convicted specifically for slavery and trafficking offenses. The courts set out the elements of the crimes and a roadmap for the successful prosecution of the crimes of slavery, sexual servitude, debt bondage, and trafficking. A court also established that a woman who agreed to work either legally or illegally in prostitution had in no way also agreed to her enslavement or to working in conditions of slavery. A government study recommended changes to the 457 temporary worker visa program to halt the exploitation of foreign workers.

Recommendations for Australia: Continue to conduct systematic efforts to proactively identify trafficking victims in the legalized sex trade; criminally prosecute employers who subject migrant workers to debt bondage and involuntary servitude; implement recommended changes to the 457 temporary employment visa program; and continue to implement or support a visible anti-trafficking awareness

campaign directed at clients of the sex trade.

Prosecution

The Government of Australia demonstrated increasing anti-trafficking law enforcement efforts over the last year. Australia prohibits sex and labor trafficking and trafficking-related offenses in Divisions 270 and 271 of the Commonwealth Criminal Code, which prescribe maximum penalties from 12 to 25 years, imprisonment and/or fines of up to \$140,000. These penalties are sufficiently stringent and commensurate with those prescribed for other grave crimes. In 2008, the government obtained significant convictions for sexual slavery and trafficking under its most recent laws. The two defendants in R vs Wei Tang, a trial that began in 2005, were convicted of slavery in 2007; after a retrial and conviction in 2008, they await sentencing. Keith William Dobie was convicted of trafficking in persons offenses pursuant to section 271.2(2B) of the Criminal Code and sentenced in December 2008 to five years, imprisonment. In March 2009, five more prosecutions were before the courts, involving 11 defendants. The Australian Federal Police (AFP) established an additional Trafficking and Sexual Exploitation Task Team (TSETT) in Brisbane in November 2008. The AFP, as of September 2008, had trained 132 specialist investigators on relevant legislation, investigative methodologies, trafficking trends, intelligence targeting, and victim liaison. The Commonwealth Director of Public Prosecutions (CDPP) trained prosecutors on cross-cultural issues in trafficking cases, child eyewitness testimony, and interviewing. As part of its pilot Witness Assistance Service, the CDPP developed materials explaining the criminal justice system to trafficking victims and witnesses. Since November 2008, a Witness Assistance Officer worked with prosecutors on trafficking cases. There were no reports of official involvement in trafficking. There were no cases of sexual exploitation involving Australian troops or peacekeeping officers deployed abroad.

Protection

The Government of Australia continued to provide comprehensive assistance for victims of trafficking willing

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to aid in criminal prosecutions and their family members. The government encouraged victims and witnesses to participate in trafficking investigations, and directly linked continued assistance to victims, role in a viable prosecution. Those victims who do not receive a trafficking visa generally qualify for a protection visa as a refugee, which they can apply for independently. Victims are not inappropriately incarcerated, fined, or penalized for unlawful acts committed as a direct result of being trafficked. The government is considering reforms recommended by officials and NGOs who reviewed the trafficking visa system. In collaboration with NGOs, the government developed detailed guidelines for assisting trafficking victims, which were published on its website in December 2008. The Office of Women managed the Support for Victims of People Trafficking Program. As of January 22, 2009, their program supported 44 victims. The average length of time spent in the Victim Support Program was 12.5 months.

Prevention

The Government of Australia demonstrated efforts to prevent trafficking in persons during the year. The Australian Government published the &Travel Smart: Hints for Australian Travellers,8 brochure, which highlights Australian trafficking and child sex crime laws, noting they "also prohibit the incitement, encouragement of, or gaining benefit from such activities." It provides details for reporting a possible violation of Australia's child sex laws to the AFP. From July to December 2008, the Australian Passports Office distributed over 700,000 Travel Smart brochures, one with

every passport renewal. In March 2008, a two-year international investigation led by Queensland Police Task Force &Argos8 dismantled a criminal ring which arranged and provided live video feeds of the sexual and physical abuse of children to paying customers around the world via the Internet. Australian courts convicted two men of commercial sexual exploitation of a child, including the man responsible for the website's security. Australia's extra-territorial law on child sex tourism provides penalties of up to 17 years, imprisonment for Australians convicted of sexually exploiting children under the age of 16. Two prosecutions under this law were begun in 2008. The Australian government bolstered its communications strategy to increase awareness about trafficking within the sex industry in October 2008 when it announced \$680,000 in funding for four Australian NGOs, efforts to provide outreach for trafficking victims and conduct education and awareness initiatives on human trafficking. There were no other visible measures to reduce the demand for forced labor or commercial sex acts in Australia during the reporting period. The government released a report of an experts' review on the 457 temporary worker visa program, which proposed 66 changes to protect migrants from exploitation by employers, such as more closely screening and monitoring employers. Changes to the scheme are scheduled to be included in the next budget. Twenty eight specialist overseas immigration officers and 18 overseas Airport Liaison Officers are working to stop trafficking at its source. In addition, the government provides substantial funding for law enforcement training, victim assistance programs, and prevention activities throughout Southeast Asia. The Australian government ensured that troops and police officers preparing to deploy with UN peacekeeping missions were made aware of trafficking issues and instructed as to the legal ramifications in Australia of engaging in or facilitating trafficking, or exploiting trafficking victims while deployed.

19. Post may wish to deliver the following points, which offer technical and legal background on the TIP Report process, to the host government as a non-paper with the above TIP Report country narrative:

(begin non-paper)

-- The U.S. Congress, through its passage of the 2000 Trafficking Victims Protection Act, as amended (TVPA), requires the Secretary of State to submit an annual Report to Congress. The goal of this Report is to stimulate action and create partnerships around the world in the fight against modern-day slavery. The USG approach to combating human trafficking follows the TVPA and the standards set forth in the Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, supplementing the United Nations Convention against Transnational Organized Crime (commonly known as the "Palermo Protocol"). The TVPA and the Palermo Protocol recognize that this is a crime in

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which the victims, labor or services (including in the "sex industry") are obtained or maintained through force, fraud, or coercion, whether overt or through psychological manipulation. While much attention has focused on international flows, both the TVPA and the Palermo Protocol focus on the exploitation of the victim, and do not require a showing that the victim was moved.

-- Recent amendments to the TVPA removed the requirement that only countries with a "significant number" of trafficking victims be included in the Report. Beginning with the 2009 TIP Report, countries determined to be a country of origin, transit, or destination for victims of severe forms of trafficking are included in the Report and assigned to one of three tiers. Countries assessed as meeting the "minimum

standards for the elimination of severe forms of trafficking" set forth in the TVPA are classified as Tier 1. Countries assessed as not fully complying with the minimum standards, but making significant efforts to meet those minimum standards are classified as Tier 2. Countries assessed as neither complying with the minimum standards nor making significant efforts to do so are classified as Tier 3.

-- The TVPA also requires the Secretary of State to provide a "Special Watch List" to Congress later in the year. Anti-trafficking efforts of the countries on this list are to be evaluated again in an Interim Assessment that the Secretary of State must provide to Congress by February 1 of each year. Countries are included on the "Special Watch List" if they move up in "tier" rankings in the annual TIP Report -- from 3 to 2 or from 2 to 1) or if they have been placed on the Tier 2 Watch List.

-- Tier 2 Watch List consists of Tier 2 countries determined: (1) not to have made "increasing efforts" to combat human trafficking over the past year; (2) to be making significant efforts based on commitments of anti-trafficking reforms over the next year, or (3) to have a very significant number of trafficking victims or a significantly increasing victim population. As indicated in reftel B, the TVPRA of 2008 contains a provision requiring that a country that has been included on Tier 2 Watch List for two consecutive years after the date of enactment of the TVPRA of 2008 be ranked as Tier 3. Thus, any automatic downgrade to Tier 3 pursuant to this provision would take place, at the earliest, in the 2011 TIP Report (i.e., a country would have to be ranked Tier 2 Watch List in the 2009 and 2010 Reports before being subject to Tier 3 in the 2011 Report). The new law allows for a waiver of this provision for up to two additional years upon a determination by the President that the country has developed and devoted sufficient resources to a written plan to make significant efforts to bring itself into compliance with the minimum standards.

-- Countries classified as Tier 3 may be subject to statutory restrictions for the subsequent fiscal year on non-humanitarian and non-trade-related foreign assistance and, in some circumstances, withholding of funding for participation by government officials or employees in educational and cultural exchange programs. In addition, the President could instruct the U.S. executive directors to international financial institutions to oppose loans or other utilization of funds (other than for humanitarian, trade-related or certain types of development assistance) with respect to countries on Tier 3. Countries classified as Tier 3 that take strong action within 90 days of the Report's release to show significant efforts against trafficking in persons, and thereby warrant a reassessment of their Tier classification, would avoid such sanctions. Guidelines for such actions are in the DOS-crafted action plans to be shared by Posts with host governments.

-- The 2009 TIP Report, issuing as it does in the midst of the global financial crisis, highlights high levels of trafficking for forced labor in many parts of the world and systemic contributing factors to this phenomenon: fraudulent recruitment practices and excessive recruiting fees in workers, home countries; the lack of adequate labor protections in both sending and receiving countries; and the flawed design of some destination countries, "sponsorship systems" that do not give foreign workers adequate legal recourse when faced with conditions of forced labor. As the May 2009 ILO Global Report on Forced Labor concluded, forced labor victims suffer approximately \$20 billion in losses, and traffickers, profits are estimated at \$31 billion. The current global financial crisis threatens to increase the number of victims of forced labor and increase the associated "cost of coercion."

-- The text of the TVPA and amendments can be found on

website www.state.gov/g/tip.

-- On June 16, 2009, the Secretary of State will release the ninth annual TIP Report in a public event at the State Department. We are providing you an advance copy of your country's narrative in that report. Please keep this information embargoed until 10:00 am Washington DC time June 16. The State Department will also hold a general briefing for officials of foreign embassies in Washington DC on June 17 at 3:30 pm EDT.

(end non-paper)

¶10. Posts should make sure that the relevant country narrative is readily available on or through the Mission's web page in English and appropriate local language(s) as soon as possible after the TIP Report is released. Funding for translation costs will be handled as it was for the Human Rights Report. Posts needing financial assistance for translation costs should contact their regional bureau's EX office.

¶11. The following is press guidance provided for Post to use with local media.

Q1: Why was Australia again given a ranking of Tier 1?

A: The Government of Australia fully complies with the minimum standards for the elimination of trafficking. During the year, three offenders were convicted for slavery and trafficking offenses. As part of the trials, the courts set out the elements of the crimes and a roadmap for the successful prosecution of slavery, sexual servitude, debt bondage, and trafficking. A court also established that a woman who agreed to work either legally or illegally in prostitution had in no way also agreed to her enslavement or to working in conditions of slavery. These achievements pave the way for future successful prosecutions of trafficking offenders.

Q2: What is the nature of Australia's trafficking problem?

A: Australia is a destination country for women from Asia, Southeast Asia, and reportedly Eastern Europe trafficked for the purpose of commercial sexual exploitation. Some men and women from several Pacific islands, Asia, and Europe are recruited to work temporarily in Australia, then subsequently subjected to conditions of forced labor, including confiscation of travel documents, confinement, and threats of serious harm. Some indigenous teenage girls are exploited in prostitution at rural truck stops.

Q3: What, if anything, can Australia do to improve its anti-trafficking efforts?

A: In order to advance its anti-trafficking efforts further, the Government of Australia could: further its inquiries into labor trafficking in Australia, then take the appropriate steps to criminally prosecute employers who subject migrant workers to debt bondage and involuntary servitude, and implement recommended changes to the 457 temporary employment visa program.

¶12. The Department appreciates posts, assistance with the preceding action requests.

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